

## **Auto and Homeowners Insurance Availability and Affordability in Detroit**

### **Discussion with the City Council of Detroit**

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## Insured Homes by Policy Quality

	<i>Number of Insured Homes</i>			
	Michigan <u>2001</u>	Detroit <u>2001</u>	Michigan <u>2002</u>	Detroit <u>2002</u>
Low Quality	6,217	1,119	16,944	3,508
Medium Quality	70,525	23,686	73,634	23,632
MI Basic Prop	51,463	22,497	54,037	22,600
High Quality	1,638,033	89,810	1,661,691	81,680
Total	1,714,775	114,615	1,752,269	108,820

	<i>Quality Type Share of Total</i>			
	Michigan <u>2001</u>	Detroit <u>2001</u>	Michigan <u>2002</u>	Detroit <u>2002</u>
Low Quality	0.4%	1.0%	1.0%	3.2%
Medium Quality	4.1%	20.7%	4.2%	21.7%
MI Basic Prop	3.0%	19.6%	3.1%	20.8%
High Quality	95.5%	78.4%	94.8%	75.1%

	<i>Detroit Share of Policy Quality Type</i>	
	<u>2001</u>	<u>2002</u>
Low Quality	18.0%	20.7%
Medium Quality	33.6%	32.1%
MI Basic Prop	43.7%	41.8%
High Quality	5.5%	4.9%
Total	6.7%	6.2%

Data Source: *The Competitiveness and Premium Excessiveness of the Home and Auto Insurance Industries in the State of Michigan* , September 2004

## **Responses to City Council Letters of March 2007**

### Insurance Institute of Michigan (IIM)

IIM makes five basic points. First, markets are competitive as evidenced by the Galster Report to the Commissioner and competitive markets will address any perceived problems. Second, claim costs are driving rates as evidenced by the 1999 study of claim costs. Third, review of insurer practices affecting insurance availability and affordability are the responsibility of the Office of Financial and Insurance Services and not the Detroit City Council. Fourth, addressing insurance premiums must be done by addressing underlying costs and such actions are the responsibility of the Michigan Legislative and not the Detroit City Council. Fifth, some of the information requested by the City Council is public information at OFIS and the remainder is proprietary to insurers.

Analysis: The IIM, and the insurers it speaks on behalf of, shows no interest in working with City Council. Despite the Commissioner's use of the Galster Report to find Michigan auto and homeowners insurance markets competitive, the study is a very limited and weak analysis of competition on the one hand and does not provide a basis for a finding of competition on the other hand. The 1999 study of claim costs is dated and insufficiently detailed to provide the City Council with information to design a loss mitigation program. The notion that competition will solve all market problems is factually incorrect and represents an excuse for not working with the City Council. Finally, the lack of interest in working with the City Council is very surprising given the very high cost of insurance and the obvious impact of these costs on individual and community economic development in Detroit.

### Frankenmuth Mutual

The law firm of Foster, Swift, Collin & Smith replied on behalf of the company claiming the City Council's request was "improper" because the Council has no legal authority to make such a request and the request provides no assurance that confidential and proprietary information will withheld from the public.

Analysis:

It is unclear what the law firm means by characterizing the request as "improper." The City Council may request anything of anyone, just as any citizen may do. While the City Council may not have legal authority to compel a response from the insurer, it is certainly "proper" for the City Council to attempt to collect information -- from any entity -- that could help the City Council address the high cost of personal insurance in the City of Detroit. The law firm protests the request of confidential and trade secret information, but fails to identify which of the requested information falls into this category. The law firm criticizes City Council for providing no assurances that "sensitive" information will be protected, but fails to even ask if the City would do so if the company submitted the information.

### Allstate

Allstate declines to provide any information because "the insurance industry is heavily regulated by the State of Michigan. We work on a regular basis with legislative leaders and the Office of Financial and Insurance Services."

### Analysis

Apparently, Allstate is selective about which legislative leaders they choose to work with as members of the City Council are clearly legislative leaders with whom Allstate has chosen not to work with. Further, it is unclear how the reasons supplied by Allstate -- insurance is a regulated industry; the company works with legislative leaders and the regulator -- offer a rationale for not responding to the request for information. There is nothing inconsistent between the reasons provided by Allstate and working with the City Council. Allstate works with a variety of organizations for public relations, for example, despite insurance being a regulated industry.

### Property Casualty Insurers Association of America (PCI)

PCI, a national trade association of insurers, cites concern over the proprietary nature of information requested and refers the City Council to the Galster competition report and Commissioner Waters commentary on that report as "ample material to enlighten the Council of the nature of insurance market in the state."

Analysis: As it is clear that the two documents cited by PCI provide little, if anything, in response to the City Council's request for information, it seems clear that PCI has no interest in working with the City Council nor providing any information to help the City address the cost drivers of personal insurance in Detroit.

### State Farm

Adopts the IIM response, but states it is willing to engage in constructive dialogue with the City Council to address insurance related issues and concerns.

Analysis: State Farm adopts the non-response proffered by IIM, but further states it is willing to engage in dialogue. However, State Farm provides no indication of what the willingness might consist of.

### Farmers

Adopts the IIM response.

Analysis: See IIM analysis.

### Hasting Mutual

Hastings Mutual states it is a member of the IIM and cites the IIM response.

Analysis: See analysis of IIM response.

### USAA

USAA responds by citing their criteria for eligibility for auto and homeowners insurance – member or relative of member in the military. For other financial products – life insurance, mutual funds – USAA has no similar eligibility criteria. Given that eligibility for USAA is limited to military personnel and their relatives, it may be that USAA has limited ability to increase its sales in Detroit. USAA offered some selected factoids but declined to provide any of the requested information. USAA also declined to provide any information about or assistance in addressing cost drivers of insurance in Detroit.

Analysis: As USAA declined to provide any of the requested information, there is no way to evaluate whether USAA could write more business in Detroit or offer insurance at lower rates. USAA is a direct writer – they employ no agents, but rely on other forms of marketing to their target market. As USAA declined to answer questions about their marketing, there is no way to determine if or how USAA markets its products to eligible Detroit residents.

### Met Life

Met Life reports that it has no physical agents in Michigan, but relies on marketing through group programs and direct marketing means. Met Life did provide some sales information, including policies in force in and marketing mailings to residents in Detroit, Wayne County and Michigan. Met Life also reported several recent rate decreases for both auto and homeowners in Detroit, claims their rates are competitive and that they want to profitably grow their business.

Analysis: While Met Life declined to provide most of the requested information, Met Life did provide some sales and marketing information. Met Life's data indicates that the company's Detroit share of Michigan policies are slightly less than Detroit's share of Michigan's population. However, their data indicate that the company's share of policies in Wayne County (excluding Detroit) is 3 to 4 times the Wayne County (excluding Detroit) share of Michigan's population. Somehow, Met Life's marketing is 3 to 4 times more successful in the remainder of Wayne County than in Detroit. A review of Met Life's rate filings may confirm Met Life's claims about policies and rate reductions. However, absent information about rating tiers and eligibility, it is not possible to determine what types of rates are available to Detroit residents. It would be useful to examine why Met Life's more intensive marketing in Detroit and competitive pricing has resulted in relatively fewer policies in Detroit than in the remainder of Wayne County.

## Travelers

Travelers notes that it has a small market share and declines to provide any requested information, claiming the information is either proprietary or available from OFIS.

Analysis: While Travelers may have a small overall market share in Michigan, it is unclear if they sell any policies in Detroit.

## Arrowhead / QBE

Arrowhead General Insurance Agency responds on behalf of QBE Insurance Corporation, stating that the Arrowhead is the General Agent for QBE Insurance Corporation in Michigan.

Arrowhead is the managing general agent (MGA) for QBE Insurance Corporation in MI. An MGA operates like an insurance company. The MGA establishes and files the rates and forms for the insurance program and typically reinsures the business with a licensed insurance company. QBE provides the "paper" upon which the policy is issued -- meaning that while Arrowhead sells the policy, the policy is issued by QBE Insurance Corporation. Stated differently, the Arrowhead MGA is a fronting operation. Such MGA fronting operations are typically used for non-standard markets.

Arrowhead responds to all the questions, but the answers are limited because they state the program (Arrowhead) has only been issuing policies since October 15, 2006 with a total of 116 policies issued through the end of February 2007. Consequently, Arrowhead has little or nothing to say in response to most questions.

Analysis:

QBE Insurance Corporation has issued auto policies in Michigan prior to October 15, 2006. QBE has submitted rate filing to the Office of Financial and Insurance Services for rate increases on June 1, 2004 and June 9, 2005, indicating that QBE was issuing policies prior to June 2004.

Arrowhead states they utilize only one rating tier and use only type of vehicle and multi vehicle discount for rating. It is common for non-standard insurers to have a simpler underwriting and rating structure than standard and preferred insurers or Progressive. It is also common for the rates to be much higher, on average, than for other insurers.

Responses to questions about claims are generic and provide little or no insight into cost drivers in Detroit.

## Components of the Premium Dollar

	<i>Auto Liability</i>		<i>Auto Physical Damage</i>		<i>Homeowners</i>	
	<u>Michigan</u>	<u>Countrywide</u>	<u>Michigan</u>	<u>Countrywide</u>	<u>Michigan</u>	<u>Countrywide</u>
1 Investment Income	32.4%	11.9%	7.0%	6.6%	9.2%	9.8%
2 Losses	76.4%	59.4%	58.3%	55.6%	48.9%	48.2%
3 Loss Adjustment Expense	17.5%	13.3%	10.0%	9.6%	8.5%	8.4%
4 General Expense	5.7%	5.7%	5.6%	5.6%	4.6%	4.6%
5 Selling Expense	15.2%	16.2%	15.6%	16.2%	20.0%	20.9%
6 Taxes License Fees	1.9%	2.3%	2.0%	2.2%	1.2%	2.2%
7 Profit Before Inv Income	-16.7%	3.1%	8.5%	10.8%	16.8%	15.7%
8 Profit After Inv Income	15.7%	15.0%	15.5%	17.4%	26.0%	25.5%
9 Ratio of Premium to Reported Net Worth	0.393	0.983	1.553	1.586	1.141	1.088
10 Return on Reported Net Worth	4.3%	10.3%	16.9%	19.3%	20.8%	19.4%
11 Return on 2:1 Premium to Net Worth	22.0%	21.0%	21.7%	24.4%	36.4%	35.7%

Data Source, Lines 1 to 6 and 9: National Association of Insurance Commissioners, *Profitability By State By Line in 2006*

"The profit reported for Michigan auto liability is not meaningful because of data reporting anomalies arising from the data related to the Michigan Catastrophic Claims Association."

Line 7: 1 minus the sum of Lines 2 through 6

Line 8: Line 7 plus Line 1

Line 10: Line 8 x 0.7 x Line 9 -- 0.7 to reflect 30% income tax rates

Line 11: Line 8 x 0.7 x 2 -- to reflect a 2:1 Premium to Net Worth Ratio

## Loss Ratios for Michigan Auto and Homeowners Insurance

<u>Year</u>	<u>Auto Liability</u>	<u>Auto Physical Damage</u>	<u>Homeowners</u>
1997	72.1%	76.0%	79.5%
1998	94.2%	65.9%	85.5%
1999	99.1%	67.1%	94.6%
2000	102.2%	72.7%	88.1%
2001	136.9%	72.2%	109.1%
2002	112.4%	66.7%	67.9%
2003	123.1%	61.1%	58.7%
2004	92.0%	56.7%	49.6%
2005	119.7%	59.3%	46.1%
2006	76.4%	58.3%	48.9%
Average	102.8%	65.6%	72.8%

Data Source: National Association of Insurance Commissioners,  
*Report on Profitability By State by Line in 2006*  
 Auto Liability Loss Ratios skewed by MCCA Data Anomalies



**Detroit Claim Costs -- Homeowners**

Michigan Urban Insurance Task Force  
November 1999 Update of Loss Experience Study

Insurance Services Office, Statistical Report 2001-2005

Independent Statistical Services, Statistical Report 2000-2004, HO-3 Only

Claim Costs Per Insured Home (Pure Premium)

	MI Urban TF 1993-1997	ISO 2001- 2005	ISS 2000- 2004
Detroit	\$517	\$691	\$748
Remainder Wayne County	\$213	\$344	\$335
Macomb County	\$190	\$483	\$312
Oakland County	\$255	\$317	\$492

## Top Homeowners Insurance Companies In Michigan

	<b>2006</b>		<b>2005</b>		<b>2004</b>		<b>2003</b>	
	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>
State Farm	19.0%	50.8%	19.1%	46.3%	18.9%	44.8%	18.1%	54.8%
Auto Owners	14.3%	60.5%	14.6%	59.1%	14.0%	68.1%	13.5%	67.6%
Auto Club MI	10.0%	45.0%	10.3%	42.7%	10.7%	48.2%	11.6%	56.7%
Citizens	9.4%	40.6%	9.2%	40.0%	9.9%	49.8%	10.1%	53.6%
Allstate	7.8%	34.1%	7.6%	31.1%	7.3%	25.4%	7.9%	41.6%
Zurich/Farmers/Foremost	4.9%	55.4%	4.6%	45.7%	4.1%	42.0%	4.0%	52.3%
MI Farm Bureau	4.7%	48.4%	4.8%	53.2%	4.6%	58.1%	4.2%	69.1%
Nationwide	2.8%	52.6%	3.0%	52.8%	3.2%	52.6%		
Frankenmuth	2.6%	39.5%	2.4%	34.0%			2.2%	55.2%
Pioneer State Mutual	2.3%	54.3%	2.4%	48.8%	2.3%	59.4%		
Michigan Basic Property Insurance Association					2.5%	63.3%	2.8%	90.8%
State		48.6%		46.1%		49.6%		58.7%

Data Source: National Association of Insurance Commissioners, *Market Share Reports for Property/Casualty Insurance*, 2003 through 2006 Editions

## Top Auto Insurance Companies In Michigan

	<b>2006</b>		<b>2005</b>		<b>2004</b>		<b>2003</b>	
	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>	<u>Mkt Share</u>	<u>Loss Ratio</u>
State Farm	18.8%	64.1%	19.2%	74.7%	18.8%	72.4%	18.5%	95.4%
Auto Club MI	17.0%	72.2%	17.6%	86.0%	18.6%	60.8%	19.9%	112.6%
Auto Owners	9.0%	76.6%	9.3%	73.5%	9.5%	66.4%	9.0%	78.6%
Citizens	7.8%	74.8%	7.5%	64.8%	8.0%	58.1%	8.3%	94.9%
Progressive	7.5%	46.8%	6.9%	48.0%	6.3%	72.6%	5.0%	58.2%
Allstate	6.5%	47.5%	6.5%	127.3%	6.0%	131.7%	6.6%	46.4%
GMAC Insurance	4.9%	73.7%	2.1%	34.1%	1.9%	80.8%		
Nationwide	4.4%	77.7%	4.6%	252.7%	4.6%	106.8%	4.5%	100.1%
Michigan Farm Bureau	4.0%	90.3%	4.2%	66.5%	4.3%	76.7%	4.3%	95.3%
State		67.2%		85.8%		74.2%		90.2%

Data Source: National Association of Insurance Commissioners, *Market Share Reports for Property/Casualty Insurance, 2003 through 2006 Editions*. Auto Loss Ratios skewed by MCCA data anomalies.

## **Legal Framework for Auto and Homeowners Insurance In Michigan: Insurance Code, Chapter 21: Michigan Essential Insurance Act**

Section 2109: Rates may not be excessive, inadequate or unfairly discriminatory

Section 2109: A rate is not excessive unless it is unreasonable high for the insurance coverage provided and a reasonable degree of competition does not exist for the insurance to which the rate is applicable.

Section 2109: A rate for a coverage is unfairly discriminatory in relation to another rate for the same coverage if the differential between the rates is not reasonably justified by differences in losses, expenses, or both, or by differences in the uncertainty of loss, for the individuals or risks to which the rates apply

Section 2110: Risks may be grouped by classifications for the establishment of rates and minimum premiums. The classifications may measure differences in losses, expenses, or both.

Sec. 2110a. If uniformly applied to all its insureds, an insurer may establish and maintain a premium discount plan utilizing factors in addition to those permitted by section 2111 for insurance if the plan is consistent with the purposes of this act and reflects reasonably anticipated reductions in losses or expenses.

Section 2111. Limitations on risk classifications and territorial base rates. Examples:

- An insurer shall not establish or maintain rates or rating classifications for automobile insurance based upon sex or marital status.
- Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.
- If an insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.
- An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation, would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

Section 2114 A person or organization aggrieved with respect to any filing which is in effect and which affects the person or organization may make written application to the commissioner for a hearing on the filing. If after hearing or upon the commissioner's own motion pursuant, the commissioner finds that a filing does not meet the requirements of sections 2109 and 2111, the commissioner shall issue an order stating the specific reasons for that finding. The order shall state when, within a reasonable time after issuance of the order, the filing shall be considered no longer effective.

Section 2115 If as part of a decision in a proceeding under section 2114, or in a separate proceeding on the commissioner's own motion, the commissioner finds that a reasonable degree of competition does not exist on a statewide basis with respect to automobile insurance or home insurance, the commissioner shall by order require each insurer which transacts that type of insurance in this state to comply with the provisions of chapter 24 or 26, as the case may be, with respect to that insurance which was the subject of the commissioner's finding.

## **Rating Factors**

Territory

    ZIP Codes

    Census Tracts

Credit History

Prior Bodily Injury Limits

Prior Insurer

Prior Insurance

Education

Occupation

## **Section 2110a Discounts**

10 Consumers Paying \$100 Each – Total Premium of \$1,000

Insurer Introduces Credit Score “Discount”

- Raises Base Rate to \$120
- Gives 33% Discount to 5 Consumers
- Now 5 Consumers Pay \$120 and 5 Consumers Pay \$80
- Total Premium Still \$1,000
- No Reduction in Expected Losses

Discounts Tied to Reductions in Losses – Anti-Theft Devices

Versus

Discounts That Just Redistribute Premium

Impact of Credit Score – 300% from best to worst

## **Group Discounts**

MI Education Association     20%

MI Assoc of School Administrators   20%

MI Assoc of CPAs     20%

Engineering Society of Detroit     20%

Michigan Dental Assoc     18%

Optimist Club   5%

Kiwanis Club   5%

Rotary Club   10%

Members of Credit Unions   2%

## **Insurance Code Chapter 21 – Selected Text**

### **500.2109 Rates for automobile insurance and home insurance; requirements; determining existence of reasonable degree of competition.**

Sec. 2109. (1) All rates for automobile insurance and home insurance shall be made in accordance with the following provisions:

(a) Rates shall not be excessive, inadequate, or unfairly discriminatory. A rate shall not be held to be excessive unless the rate is unreasonably high for the insurance coverage provided and a reasonable degree of competition does not exist for the insurance to which the rate is applicable.

(c) A rate for a coverage is unfairly discriminatory in relation to another rate for the same coverage if the differential between the rates is not reasonably justified by differences in losses, expenses, or both, or by differences in the uncertainty of loss, for the individuals or risks to which the rates apply. A reasonable justification shall be supported by a reasonable classification system; by sound actuarial principles when applicable; and by actual and credible loss and expense statistics or, in the case of new coverages and classifications, by reasonably anticipated loss and expense experience. A rate is not unfairly discriminatory because it reflects differences in expenses for individuals or risks with similar anticipated losses, or because it reflects differences in losses for individuals or risks with similar expenses.

(2) A determination concerning the existence of a reasonable degree of competition with respect to subsection (1)(a) shall take into account a reasonable spectrum of relevant economic tests, including the number of insurers actively engaged in writing the insurance in question, the present availability of such insurance compared to its availability in comparable past periods, the underwriting return of that insurance over a period of time sufficient to assure reliability in relation to the risk associated with that insurance, and the difficulty encountered by new insurers in entering the market in order to compete for the writing of that insurance.

### **500.2110 Development and evaluation of rates; considerations; systems of expense provisions; grouping risks by classifications.**

Sec. 2110. (1) In developing and evaluating rates pursuant to the standards prescribed in section 2109, due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any; to a reasonable margin for underwriting profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses, both countrywide and those specially applicable to this state exclusive of assessments under this code; to assessments under this code; to underwriting practice and judgment; and to all other relevant factors within and outside this state.

(2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of the insurer or group with respect to any

kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(3) Risks may be grouped by classifications for the establishment of rates and minimum premiums. The classifications may measure differences in losses, expenses, or both.

**500.2110a Premium discount plan.**

Sec. 2110a. If uniformly applied to all its insureds, an insurer may establish and maintain a premium discount plan utilizing factors in addition to those permitted by section 2111 for insurance if the plan is consistent with the purposes of this act and reflects reasonably anticipated reductions in losses or expenses. This section does not affect benefits or obligations required under chapter 31. Nothing in this section authorizes an insurer to offer or prohibits an insurer from offering premium discount plans concerning any of the following:

- (a) Health care services, health care providers, or health care facilities.
- (b) Automobile repair providers.
- (c) Materials used in the repair of an automobile.

**500.2111 Classifications and territorial base rates for automobile insurance or home insurance; conformity with applicable requirements.**

Sec. 2111. (1) Notwithstanding any provision of this act and this chapter to the contrary, classifications and territorial base rates used by any insurer in this state with respect to automobile insurance or home insurance shall conform to the applicable requirements of this section.

(2) Classifications established pursuant to this section for automobile insurance shall be based only upon 1 or more of the following factors, which shall be applied by an insurer on a uniform basis throughout the state:

- (a) With respect to all automobile insurance coverages:
  - (i) Either the age of the driver; the length of driving experience; or the number of years licensed to operate a motor vehicle.
  - (ii) Driver primacy, based upon the proportionate use of each vehicle insured under the policy by individual drivers insured or to be insured under the policy.
  - (iii) Average miles driven weekly, annually, or both.
  - (iv) Type of use, such as business, farm, or pleasure use.
  - (v) Vehicle characteristics, features, and options, such as engine displacement, ability of vehicle and its equipment to protect passengers from injury and other similar items, including vehicle make and model.
  - (vi) Daily or weekly commuting mileage.
  - (vii) Number of cars insured by the insurer or number of licensed operators in the household. However, number of licensed operators shall not be used as an indirect measure of marital status.
  - (viii) Amount of insurance.
- (b) In addition to the factors prescribed in subdivision (a), with respect to personal protection insurance coverage:
  - (i) Earned income.
  - (ii) Number of dependents of income earners insured under the policy.



- (iii) Coordination of benefits.
- (iv) Use of a safety belt.
- (c) In addition to the factors prescribed in subdivision (a), with respect to collision and comprehensive coverages:
  - (i) The anticipated cost of vehicle repairs or replacement, which may be measured by age, price, cost new, or value of the insured automobile, and other factors directly relating to that anticipated cost.
  - (ii) Vehicle make and model.
  - (iii) Vehicle design characteristics related to vehicle damageability.
  - (iv) Vehicle characteristics relating to automobile theft prevention devices.
- (d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver or drivers insured under the policy of an accident prevention education course that meets the following criteria:
  - (i) The course shall include a minimum of 8 hours of classroom instruction.
  - (ii) The course shall include, but not be limited to, a review of all of the following:
    - (A) The effects of aging on driving behavior.
    - (B) The shapes, colors, and types of road signs.
    - (C) The effects of alcohol and medication on driving.
    - (D) The laws relating to the proper use of a motor vehicle.
    - (E) Accident prevention measures.
    - (F) The benefits of safety belts and child restraints.
    - (G) Major driving hazards.
    - (H) Interaction with other highway users such as motorcyclists, bicyclists, and pedestrians.
- (3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:
  - (a) Substantially at-fault accidents.
  - (b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750. However, beginning 90 days after the effective date of this sentence, an insured shall not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer than that which the secretary of state's office carries points for that infraction on the insured's motor vehicle record.
- (4) An insurer shall not establish or maintain rates or rating classifications for automobile insurance based upon sex or marital status.**
- (5) Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.**
- (6) This section shall not be construed as limiting insurers or rating organizations from establishing and maintaining statistical reporting territories. This section shall not be construed to prohibit an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. **If an**

**insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.**

(7) Classifications established pursuant to this section for home insurance other than inland marine insurance provided by policy floaters or endorsements shall be based only upon 1 or more of the following factors:

- (a) Amount and types of coverage.
- (b) Security and safety devices, including locks, smoke detectors, and similar, related devices.
- (c) Repairable structural defects reasonably related to risk.
- (d) Fire protection class.
- (e) Construction of structure, based on structure size, building material components, and number of units.
- (f) Loss experience of the insured, based upon prior claims attributable to factors under the control of the insured that have been paid by an insurer. An insured's failure, after written notice from the insurer, to correct a physical condition that presents a risk of repeated loss shall be considered a factor under the control of the insured for purposes of this subdivision.
- (g) Use of smoking materials within the structure.
- (h) Distance of the structure from a fire hydrant.
- (i) Availability of law enforcement or crime prevention services.

(8) Notwithstanding other provisions of this chapter, home insurance risks may be grouped by territory.

**(9) An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation, would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.**

**500.2114 Person or organization aggrieved by filing; application for hearing; specification of grounds; notice of hearing; order of commissioner.**

Sec. 2114. (1) A person or organization aggrieved with respect to any filing which is in effect and which affects the person or organization may make written application to the commissioner for a hearing on the filing. However, the insurer or rating organization which made the filing shall not be authorized to proceed under this subsection. The application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the grounds specified are established, or that the grounds specified otherwise justify holding a hearing, the commissioner, not more than 30 days after receipt of the application, shall hold a hearing in accordance with Act No. 306 of the Public Acts of 1969, as amended, upon not less than 10 days' written notice to the applicant, the insurer, and the rating organization which made the filing.

(2) If after hearing initiated under subsection (1) or upon the commissioner's own motion pursuant to Act No. 306 of the Public Acts of 1969, as amended, the commissioner finds

that a filing does not meet the requirements of sections 2109 and 2111, the commissioner shall issue an order stating the specific reasons for that finding. The order shall state when, within a reasonable time after issuance of the order, the filing shall be considered no longer effective. A copy of the order shall be sent to the applicant, if any, and to each insurer and rating organization subject to the order. The order shall not affect a contract or policy made or issued before the date the filing becomes ineffective, as indicated in the commissioner's order.

**500.2115 Finding by commissioner that reasonable degree of competition does not exist on statewide basis; order requiring compliance with chapter 24 or 26; hearing; notice; new order.**

Sec. 2115. (1) If as part of a decision in a proceeding under section 2114, or in a separate proceeding on the commissioner's own motion, held pursuant to Act No. 306 of the Public Acts of 1969, as amended, the commissioner finds that a reasonable degree of competition does not exist on a statewide basis with respect to automobile insurance or home insurance, the commissioner shall by order require each insurer which transacts that type of insurance in this state to comply with the provisions of chapter 24 or 26, as the case may be, with respect to that insurance which was the subject of the commissioner's finding. The order shall take effect not less than 90 nor more than 150 days after the order is issued. On or after the effective date of an order issued under this subsection, none of the provisions of this chapter shall be applicable to the insurance which was the subject of the order.

(2) After an order issued pursuant to subsection (1) has been in effect for 1 year, if the commissioner has reason to believe that there would be a reasonable degree of price competition for the type of insurance affected by the order, or if, upon the petition of an insurer or a resident of this state, there is a showing that there is reason to believe that there would be a reasonable degree of price competition for that type of insurance, the commissioner shall hold a hearing pursuant to Act No. 306 of the Public Acts of 1969, as amended, to determine if a reasonable degree of price competition would exist if the order were no longer in effect. The hearing shall be held upon not less than 20 days' written notice to each insurer subject to the order and upon not less than 20 days' notice in not less than 3 newspapers of general circulation within this state.

(3) If the commissioner finds after the hearing that a reasonable degree of price competition would exist, the commissioner shall by order state when, not less than 90 nor more than 150 days after issuance of a new order, the preceding order will no longer be effective. On and after the effective date of an order issued under this subsection, the provisions of this chapter shall be applicable to the type of insurance which was the subject of the order.

## Administrative Rule 500.1501 Essential Insurance Act

### R 500.1503 Excessive rates.

Rule 3. For the purposes of section 2109(1)(a) of the code, both of the following provisions shall apply:

- (a) A rate is unreasonably high for the insurance coverage provided if it is unreasonably high in relation to anticipated losses or expenses, or both, or to the uncertainty of loss for the insurance coverage provided.
- (b) A determination regarding the existence of a reasonable degree of competition shall give due consideration to, at a minimum, all of the following:
  - (i) The relevant market for the coverage or the type of insurance to which the rate applies.
  - (ii) The number of insurers and the number of self-insurers actively engaged in writing or providing the coverage or type of insurance in the relevant market.
  - (iii) The distribution of rates and market shares for such insurers in the relevant market. Market shares may be measured either by premiums or exposures.
  - (iv) Past and prospective trends in the availability of coverage and coverage options for insurance of that type in the relevant market.
  - (v) Profits attributable to insurance of that type in relation to the profitability of other types of insurance, to the uncertainty of loss for that and other types of insurance, and to the amount of capital and surplus funds available to support premium writings for that and other types of insurance.
  - (vi) The ability and potential for firms to enter and exit the relevant market and for financial capital and surplus funds to be allocated to, and to be removed from, the relevant market.

R 500.1505 Unfairly discriminatory rates.

Rule 5. (1) For purposes of section 2109(1)(c) of the code, a rate for a coverage is unfairly discriminatory in relation to another rate for the same coverage if the differential between the rates is not reasonably justified by differences in mean anticipated losses or expenses, or both, or by differences in the uncertainty of loss for the individuals or risks to which the rates apply. A reasonable justification shall be supported by a reasonable classification system, by sound actuarial principles, and by actual and credible loss and expense statistics or, in the case of new coverages and classifications, by reasonably anticipated loss and expense experience.

(2) A rate is not unfairly discriminatory because it reflects differences in anticipated expenses for classifications of risks with similar anticipated losses or because it reflects differences in anticipated losses for classifications of risks with similar anticipated expenses.

(3) A reasonable classification system is a system designed to group individuals or risks with similar characteristics into rating classifications which are likely to identify significant differences in mean anticipated losses or expenses, or both, between the groups, as determined by sound actuarial principles and by actual and credible loss and expense statistics or, in the case of new coverages or classifications, by reasonably anticipated loss and expense experience.

(4) Sound actuarial principles shall include, but not be limited to, all of the following principles:

(a) That data used in developing classifications and rates are derived from the experience of a population or sample of risks that is sufficiently similar to the anticipated insured population so that the statistics thereby obtained can reasonably be expected to produce representative and reliable estimates of the anticipated loss and expense experience for the insured population and so that such statistics are calculated in a manner that is suitable to their intended use.

(b) That a reasonable predictive relationship can be demonstrated to exist between a characteristic used in defining a rating classification and anticipated losses, anticipated expenses, or the uncertainty of loss for the risks to which the classification applies.

(c) That if rates for individual rating cells are calculated by means of arithmetic combinations of relativities for the classifications defining those cells, the relativities are combined in a manner that equitably reflects the anticipated loss and expense experience for those rating cells.

(d) That sampling techniques used in developing classifications and in estimating loss and expense experience are suitable to their intended application.

(e) That with regard to private passenger automobile insurance and private residential property insurance, rates for an insurance coverage provided are established in a manner that can reasonably be anticipated to produce loss ratios which are substantially uniform among the classifications, kinds, or types of individuals or risks to which the rates apply. Evaluation of loss ratios shall make appropriate adjustments for differences in deductibles and limits of liability among insureds, for expense provisions which are not allocated to premiums on a percentage-of-premium basis, and for differences in contingency factors among classifications and shall give due consideration to the credibility of experience for groupings of individuals or risks, to trends in past and

prospective loss experience, and to historical patterns between projected and realized loss ratios. For purposes of this subdivision, "substantially uniform" means the absence of significant variations among loss ratios. This subdivision shall not be construed to prohibit the use of appropriate pure premium relativities to estimate or evaluate rate relativities.

(5) Data of an insurer or rating organization used in calculating actual and credible loss statistics shall be of sufficient volume, or shall be combined in an appropriate manner with suitable data of sufficient volume, so that the statistics thereby calculated are reasonably credible and can reasonably be anticipated to produce reliable estimates of anticipated loss and expense experience.

(6) Data for reasonably anticipated experience used in calculating rates for new coverages and in establishing new classifications shall, to the extent possible, be based on actual experience for similar coverages and for groups of risks similar to the proposed classification and shall be of sufficient volume so that statistics thereby produced can reasonably be anticipated to produce reliable estimates of loss and expense experience.

(7) Relevant external information, including general economic data and other indicators, may be given due consideration in evaluating or projecting loss and expense experience.